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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3210

11 ISAAC JAMES MANTE  
12 19170 Locarno Way  
Salinas, CA 93906

**A C C U S A T I O N**

13 Pharmacy Technician Registration  
14 Number TCH 42679

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about July 5, 2002, the Board of Pharmacy issued Pharmacy  
22 Technician Registration Number TCH 42679 to Isaac James Mante (Respondent). The  
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on March 31, 2010, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1           4.       Section 4011 of the Code provides that the Board shall administer and  
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled  
3 Substances Act [Health & Safety Code, § 11000 et seq.].

4           5.       Section 4300(a) of the Code provides that every license issued by the  
5 Board may be suspended or revoked.

6           6.       Section 118(b) of the Code provides, in pertinent part, that the suspension,  
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to  
8 proceed with a disciplinary action during the period within which the license may be renewed,  
9 restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license  
10 that is not renewed within three years following its expiration may not be renewed, restored, or  
11 reinstated and shall be canceled by operation of law at the end of the three-year period. Section  
12 4402(e) of the Code provides that any other license issued by the Board may be canceled by the  
13 Board if not renewed within 60 days after its expiration, and any license canceled in this fashion  
14 may not be reissued but will instead require a new application to seek reissuance.

#### 15                               STATUTORY PROVISIONS

16           7.       Section 4301 of the Code provides, in pertinent part, that the Board shall  
17 take action against any holder of a license who is guilty of "unprofessional conduct," defined to  
18 include, but not be limited to, any of the following:

19                   (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
20 deceit, or corruption, whether the act is committed in the course of relations as a licensee or  
21 otherwise, and whether the act is a felony or misdemeanor or not.

22                   (g) Knowingly making or signing any certificate or other document that falsely  
23 represents the existence or nonexistence of a state of facts.

24                   (h) The administering to oneself, of any controlled substance, or the use of any  
25 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
26 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
27 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
28 the public the practice authorized by the license.

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of the license.

9. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

10. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

12. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

13. Health and Safety Code section 11173, subdivision (a), provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

#### CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

17. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

...

"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

18. **Cocaine** is a Schedule I (in base form) or Schedule II controlled substance as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

19. **Methadone** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(14) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

20. **Hydrocodone (bitartrate)** is a primary ingredient in brand-name drugs such as **Vicodin**, **Norco**, and **Lortab**, and generic equivalents. It is a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

21. **Diazepam** (brand name **Valium**) is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

22. Respondent is subject to disciplinary action under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for conviction of a substantially related crime, in that on or about July 8, 1998, in a criminal case titled *People v. Isaac James Mante*, Case No. MK980073 in Monterey County Municipal Court, Respondent was convicted pursuant to a plea of violating Penal Code section 12031, subdivision (a) (Carrying Loaded Firearm on Person/in Vehicle in Public Place), a misdemeanor, as follows:

a. On or about May 22, 1998 and June 14, 2008, Respondent was arrested and charged with violating (1) Health and Safety Code section 11350 (Possession of Controlled Substance - **Cocaine**), a felony, (2) Penal Code section 12031, subdivision (a) (Carrying Loaded Firearm on Person/in Vehicle in Public Place), a misdemeanor, and (3) Penal Code section 12025, subdivision (a)(1) (Carrying Concealed Firearm in Vehicle), a misdemeanor.

b. On or about July 8, 1998, Respondent pleaded guilty or no contest to the first two counts. The third count was dismissed. As to the first count, entry of judgment was deferred under Penal Code section 1000 *et seq.* to permit Respondent to enroll in and complete a Drug Diversion Program. On or about February 3, 1999, Respondent successfully completed Drug Diversion, and on or about February 23, 2000, this charge was dismissed. As to the conviction on the second count, on or about August 5, 1998, imposition of sentence was suspended in favor of a probation of three (3) years, on terms and conditions including 40 days in jail (apparently modified by subsequent order to permit alternative 45 days home confinement).

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1           a.       On or about September 15, 2005 and December 27, 2005, Respondent was  
2 arrested for and subsequently charged with violating (1) Health and Safety Code section 11350  
3 (Possession of a Controlled Substance - **Methadone**), a felony, (2) Health and Safety Code  
4 section 11350 (Possession of a Controlled Substance - **Hydrocodone**), a felony, (3) Penal Code  
5 section 12021, subdivision (c) (Possession of Firearm/Previous Firearms Conviction), a felony,  
6 (4) Penal Code section 508 (Embezzlement by Employee in Excess of \$400.00), a misdemeanor,  
7 and (5) Health and Safety Code section 11357 (Possession of Concentrated Cannabis). Found in  
8 Respondent's possession at the time of his arrest were several bottles and other containers with  
9 tablets and capsules, some identifiable and some not. Three of the bottles appeared to be from  
10 Respondent's place of work (Ordway Pharmacy), and contained, respectively: (i) **Methadone** 10  
11 mg, 40 tablets, (ii) **Hydrocodone** 7.5 mg, 100 tablets, and (iii) **Diazepam (Valium)**, 10 mg, 100  
12 tablets. Respondent stated to arresting officers that all of the drugs in his possession were for his  
13 personal use. Also in Respondent's possession was a Glock .45 caliber handgun, and six bullets.

14           b.       On or about May 31, 2006, Respondent pleaded guilty to the first count  
15 and no contest to the fourth count. The second, third, and fifth counts were dismissed. As to the  
16 first count, imposition of sentence was suspended in favor of formal probation of three (3) years,  
17 on terms and conditions including 1 day in custody with credit for 1 day served, fines and fees,  
18 total abstention from use of alcohol and abstention from use or possession of alcohol, drugs, or  
19 controlled substances absent prescription, alcohol and drug testing on demand, search conditions,  
20 registration as a narcotics offender pursuant to Health and Safety Code section 11590, treatment  
21 or rehabilitation for substance abuse as required by probation, outpatient counseling and 12-step  
22 meeting attendance, and other requirements. As to the fourth count, imposition of sentence was  
23 likewise suspended in favor of conditional probation of three (3) years, on terms and conditions  
24 including 1 day in custody with credit for 1 day served, fines and fees, and other costs.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Dangerous/Injurious Use of Alcohol and/or Drugs)

3 25. Respondent is subject to disciplinary action under section 4301(h) of the  
4 Code, for administering to himself a controlled substance, or using a dangerous drug or alcoholic  
5 beverage(s) to an extent or in a manner as to be dangerous or injurious to himself, to another  
6 person or to the public, in that on or about September 9, 2006, Respondent was arrested by the  
7 Monterey County Sheriff's Office on a charge of violating Penal Code section 647, subdivision  
8 (f) (Disorderly Conduct/Public Intoxication or Being Under the Influence of Drugs - Unable to  
9 Exercise Care for Own/Others' Safety and/or Blocking a Public Roadway).

10  
11 FIFTH CAUSE FOR DISCIPLINE

12 (Unlawful Self-Furnishing and/or -Administration of Controlled Substance)

13 26. Respondent is subject to discipline under section 4301(h), (j), and/or (o) of  
14 the Code, section 4059 of the Code, and/or Health and Safety Code section 11170, in that  
15 Respondent, as described in paragraphs 22 and 24 above, furnished to himself without a valid  
16 prescription and/or self-administered, and/or conspired to self-furnish or self-administer, and/or  
17 assisted in or abetted self-furnishing or self-administration of, one or more controlled substances.

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19 SIXTH CAUSE FOR DISCIPLINE

20 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

21 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the  
22 Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in  
23 paragraph 24 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of,  
24 one or more controlled substances, by fraud, deceit, subterfuge, or concealment of a material fact.

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